amo REPORT

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RESPONSE TO THE RENTAL HOUSING PROTECTION ACT

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO

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ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Association of Municipalities of Ontario, a non-partisan voluntary organization, is united to promote the values of the municipal government system and the status of the municipal level of government as a vital and essential component of the total intergovernmental framework of Ontario and Canada.

The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some six hundred (600) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interest.

The following sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

Association Sections:

* County and Regional Section
* Large Urban Section
* Northern Ontario Section (FONOM/NOMA)
* Rural (ROMA) Section
* Organization of Small Urban Municipalities Section

Association Affiliates:

* Association of Municipal Clerks and Treasurers of Ontario
* Association of Municipal Tax Collectors of Ontario
* Municipal Engineers Association
* Ontario Municipal Administrators Association
* Ontario Municipal Personnel Association
* Ontario Municipal Social Services Association
* Society of Directors of Municipal Recreation of Ontario
* Urban Finance Officers Association of Ontario

To the Municipal Clerk:

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AMO RESPONSE TO
THE RENTAL HOUSING PROTECTION ACT

BACKGROUND

On July 10, 1986, Bill 11: An Act Respecting the Protection of Rental Housing, received Royal Assent. The legislation is designed to preserve the existing supply of rental housing in the province. It relies upon municipalities for its implementation and imposes a number of administrative requirements. The legislation is designed to sunset in two years time.

Under the Rental Housing Protection Act, the approval of municipal council is required before any proposal to convert, demolish, renovate, sever into individual ownership, or otherwise change the use of rental housing in Ontario, can be undertaken.

The application of the Act varies depending upon the population of the municipality, the size of the building, and other factors. In fact, for the purposes of all proposals to change the use of rental residential property except condominium conversions, all municipalities are exempt from the Act except those listed in Schedule 1 of the Regulations. Schedule 1 includes all cities and all municipalities with a population of more than 25,000. Municipalities with a population of less than 25,000 are responsible for the approval of condominium conversions only, and may be added to the Regulations with respect to the other provisions of the Act if they have a shortage of rental housing.

In terms of the size of the building, for the purposes of all proposals to change the use of rental residential property except condominium conversions, a rental residential property is exempt from the Act if the number of units in the building, including the number of rental units, is **four or less.** In all Ontario municipalities, approval of municipal council is required to convert housing which contains **one or more** rental units to a condominium.

INTRODUCTION

The Association of Municipalities of Ontario acknowledges the intent of the Rental Housing Protection Act, that is, to preserve the existing supply of rental housing in the province. The Association's record of

support for affordable housing supply and rehabilitation initiatives is quite clear. In addition, individual municipalities have passed demolition control by-laws and strict condominium conversion policies. It is from this perspective that the Association approaches the Rental Housing Protection Act.

In the short term, as well as the long term, the Rental Housing Protection Act may in fact produce the opposite result that it is intended to do. In the short term, municipalities are now obligated to consider applications which they may have avoided in the past, as a matter of policy. For example, Bill 11 requires local municipalities to consider all applications for condominium conversion. In the past, many municipalities were able to deal more expeditiously with such applications by tying approval to vacancy rates in excess of that which existed in the municipality.

In the long term, Bill 11 may have the effect of further diminishing developers' incentives to maintain their properties or invest in new development. In that sense, Bill 11 is directly contrary to Bill 51, An Act to Provide for the Regulation of Rents Charged for Rental Units in Residential Complexes, which seeks to provide owners with a fair rate of return on their investment and bring developers back into the market.

The Association's comments are directed at both the current provisions of the Bill as well as the post-sunset situation.

CURRENT PROVISIONS

There are a number of matters that the Association wishes to comment upon which relate to Bill 11 as it now stands.

Consultation

The Rental Housing Protection Act relies on municipalities for its implementation and imposes a number of administrative requirements. As such, it would have been appropriate to consult with AMO and individual municipalities in developing the legislation. While the President of AMO and the Minister of Housing did meet to discuss the equity co-operative situation, the application of the Act ultimately far exceeded the scope of discussions at that meeting. The Minister and Ministry of Housing have in fact been quite open and consultative on most aspects

of "Assured Housing for Ontario", with Bill 11 representing the exception, and the Association urges the Ministry of Housing to continue consulting closely with AMO and individual municipalities in developing housing policy.

Recommendation 1

The Association urges the Ministry of Housing to continue consulting closely with AMO and individual municipalities in developing housing policy.

Application of the Act

The Rental Housing Protection Act is a response to the housing conversion problem in large urban municipalities. However, under the Act, **all** municipalities over 25,000 population must now deal with **all** changes of use of rental housing, and **all** municipalities must deal with condominium conversions, whether or not a particular problem exists in their municipality. This blanket approach is both inappropriate and unproductive. In fact, the delegation of the condominium approval authority under Section 50 of the Planning Act was working quite well prior to Bill 11. The demolition control powers under the Planning Act were also a step in the right direction, and all that was needed was the ultimate power to prevent demolitions.

A more appropriate response to the problems Bill 11 sought to address would have been to provide permissive authority, with all the requisite powers, under the Planning Act, so that municipalities with particular problems could address these problems. Alternatively, the Rental Housing Protection Act could have been permissive, with municipalities adopting provisions of the Act by by-law.

There is a further problem concerning application of the Act relating to existing agreements. In some cases, municipalities have entered into agreements with developers for the redevelopment of properties prior to the coming into force of Bill 11. The Association recommends that existing agreements with municipalities be exempt from the Act either through an amendment to the Regulations or by designation in a schedule.

Recommendation 2

That existing agreements with municipalities for the redevelopment of properties be exempt from the Act.

Condominium Conversion

Originally, the Act applied to projects which were always intended to be condominiums but were occupied prior to receiving draft approval. This was particularly unreasonable in that the Condominium Act prohibits registration of the condominium project until substantial completion of all units in the project has been achieved. Therefore, during construction of the project there are units which become ready for occupancy well in advance of the completion and subsequent registration of the project. This is especially true in townhouse condominium projects. It is not unusual for the interim occupancy period to extend for more than a year. The occupants (who eventually will become owners upon condominium registration) are tenants during this interim period between completion of their units and completion and registration of the total project. Given the foregoing, the Association appreciates the recent amendment to Section 5 of the Regulations.

As mentioned above, the delegation of the condominium approval authority to regional municipalities was working quite well prior to Bill 11. Most regional municipalities, as well as some local municipalities, had passed policies preventing condominium conversions below a certain vacancy rate. The effect of Bill 11 was to supersede these carefully considered policies and give the approval authority for conversions to local municipalities, leaving applications for new condominiums with the regional government, and applications for condominium approval for an existing rental residential property exempt from the Act, to the Ministry of Municipal Affairs. This authority is obviously too fragmented, and will lead to inconsistency within regions as well as confusion on the part of applicants as to which level of government to approach. The Association recommends that the return of this entire function to the regional municipalities should be examined and, in the interim, the Ministry of Municipal Affairs should re-delegate those files that are not covered by the Act, to the regional municipalities, if requested.

Recommendation 3

> **That the return of the entire condominium function to the regional municipalities should be examined and, in the interim, the Ministry of Municipal Affairs should re-delegate those files that are not covered by the Act, to the regional municipalities, if requested.**

Finally, with respect to the application of the condominium conversion policies of the legislation to all municipalities and the application of these policies to housing which contains one or more units, the Associa-

tion feels that this is unduly restrictive, particularly in areas where conversions or vacancy rates are not a problem. The Association accordingly recommends that the unit exemption be increased to four or less. This will not only reduce the municipal administrative burden, but will provide for consistency throughout the legislation.

Recommendation 4

That the unit exemption for condominium conversions be increased to four or less.

Renovation and Repair

The Association is concerned that the renovation and repair sections of the legislation have the effect of frustrating legitimate repairs because of the vacant possession and one-year vacancy requirements. This is directly contrary to the Low-Rise Rehabilitation Program which in fact provides funds to temporarily relocate tenants while their units are being improved. As such, the amendment to Section 6 of the Regulations exempting the Low-Rise and RRAP programs is appropriate. However, the vacant possession and one year vacancy requirements still represent an impediment to the completion of legitimate repairs. While the Association appreciates that the one-year vacancy clause is to prevent tenants from being forced from their units under duress, the Association recommends that the Ministry of Housing develop alternative legislative criteria which will recognize legitimate repairs while ensuring tenant protection.

Recommendation 5

That with respect to renovation and repairs, the Ministry of Housing develop alternative legislative criteria which will recognize legitimate repairs while ensuring tenant protection.

Impact on Zoning By-Laws

Another of the unintended impacts of Bill 11 relates to a municipality's ability to enforce its zoning by-law to remove illegal units. Prior to the coming into force of Bill 11, a municipality was able to impose a fine as well as require the removal of a rental unit built in contravention of the zoning by-law. Under Bill 11, if achieving conformity with the by-

law requires removal of rental units, an application is required. The Association rejects the application of an approval process in this situation. While AMO is sensitive to the importance of residential intensification in terms of the supply of affordable rental housing and is quite willing to discuss that issue in the context of a provincial- municipal planning process (see Recommendation 8), for present purposes the Association recommends that any Bill 11 restrictions to municipalities enforcing their zoning by-laws should be removed.

Recommendation 6

That any Bill 11 restrictions to municipalities enforcing their zoning by-laws should be removed.

Administrative Concerns

The Association would like to point out that the turnaround time for applications under the Rental Housing Protection Act is unreasonably short (Section 7(11) of the Act provides that where the council refuses or neglects to make a decision within 30 days, the applicant may appeal to the OMB), particularly in view of the municipal obligations (municipalities must hold a public hearing and may require an inspection and/ or staff reports) and the onerous notice requirements (municipalities must give notice to all tenants and place newspaper advertisements and, in the case of condominium conversions, notice and a request for written comments must be given to the Clerk of the county or region and several governmental agencies). While the 30 day decision requirement relates to existing Planning Act provisions, e.g. Section 34(11), it is interesting to note that there exists an anomaly in that legislation in that Section 34(11) requires council to make a decision within 30 days. Section 34(12) requires council to hold a public hearing, and Section 34(13) provides that the meeting provided for in Section 34(12) shall be held not sooner than 30 days after the requirements for the giving of notice have been complied with. What is needed is a realistic time frame within which the municipality can fulfill all of its obligations under the legislation and come to a decision. The Association proposes 90 days as a maximum limit.

The Association would also point out that there is no similar requirement for the Ontario Municipal Board or Cabinet to act expeditiously on appeals from decisions under the Rental Housing Protection Act. The Association further objects in principle to appeals to Cabinet.

As a final point, the legislation provided that notice of decision was to be given within five days of the making of the decision. This was felt to be inappropriate in that it placed rental housing matters ahead of all other business of local planning departments and, as such, the Association appreciates the amendment to the Regulations extending the notice of decision period by five days to ten days. The Association would point out that the notice period on rezoning applications is 15 days and would recommend a further amendment to realize consistency.

Recommendation 7

That the time period for making a decision in an application be extended to a maximum of 90 days and that the time period for giving notice of decision be extended to 15 days.

SUNSET - JUNE 30, 1988

There are some fundamental questions that need to be addressed with respect to what should occur when the Rental Housing Protection Act sunsets on June 30, 1988. Is there a need for any continued legislative framework? Should the Rental Housing Protection Act be continued in its present or a revised format? Is a completely new approach required?

One thing that is certain, is that a policy must be developed and in place by that time. It is also extremely important that municipalities be full partners in the development of a future framework for preserving the existing rental housing stock. The Minister of Housing has received a formal communication from the City of Ottawa requesting that a provincial-municipal planning group be established. The Association's Executive Committee transmitted that recommendation to the Minister in a formal meeting (October 23, 1986) and the Minister of Housing responded quite favourably. The Association would now like to reiterate and fully define its recommendation.

Recommendation 8

That Bill 11 be permitted to sunset; and

That a joint Ministry of Housing/Association of Municipalities of Ontario planning group be struck to develop a framework for dealing with the preservation of the existing supply of rental housing after June 30, 1988; and

That the Ministry of Housing provide staff resources to the planning group; and

That a thorough analysis of the impact of Bill 11 be carried out; and further

That any draft report or agreement be subject to the review of the AMO Board of Directors.

The Association would request that the Minister of Housing immediately designate a Ministry contact to communicate with the Association so that the details of this proposal can be worked out and planning can commence.

SUMMARY OF RECOMMENDATIONS

1. The Association urges the Ministry of Housing to continue consulting closely with AMO and individual municipalities in developing housing policy.

2. That existing agreements with municipalities for the redevelopment of properties be exempt from the Act.

3. That the return of the entire condominium function to the regional municipalities should be examined and, in the interim, the Ministry of Municipal Affairs should re-delegate those files that are not covered by the Act, to the regional municipalities, if requested.

4. That the unit exemption for condominium conversions be increased to four or less.

5. That with respect to renovation and repairs, the Ministry of Housing develop alternative legislative criteria which will recognize legitimate repairs while ensuring tenant protection.

6. That any Bill 11 restrictions to municipalities enforcing their zoning by-laws should be removed.

7. That the time period for making a decision in an application be extended to 90 days and that the time period for giving notice of decision be extended to 15 days.

8. That Bill 11 be permitted to sunset; and

   That a joint Ministry of Housing/Association of Municipalities of Ontario planning group be struck to develop a framework for dealing with the preservation of the existing supply of rental housing after June 30, 1988; and

   That the Ministry of Housing provide staff resources to the planning group; and

   That a thorough analysis of the impact of Bill 11 be carried out; and further

   That any draft report or agreement be subject to the review of the AMO Board of Directors.

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